

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHELLE CHAN,
Plaintiff,

v.

MARYELA PADILLA, et al.,
Defendants.

Case No. [16-cv-06954-MMC](#)

**ORDER GRANTING PLAINTIFF'S
APPLICATION TO PROCEED IN
FORMA PAUPERIS; DISMISSING
PETITION; DIRECTIONS TO CLERK**

Re: Dkt. No. 2, 5

Before the Court is plaintiff Michelle Chan's "Application to Proceed in Forma Pauperis," filed December 2, 2016. Having read and considered the application, the Court finds plaintiff has shown an inability to pay the fees to institute the instant action, and, accordingly, the application is hereby GRANTED.

Where a plaintiff proceeds in forma pauperis, the district court must dismiss the action if the court determines the plaintiff has failed to state a claim upon which relief can be granted. See 28 U.S.C. § 1915(e)(2)(B)(ii). Here, plaintiff initiated the instant action by filing a document titled "Emergency Domestic Violence Ex Parte and Order of Protection for Mother and Child," which document plaintiff refers to, and the Court construes as, a petition for relief. In her petition, plaintiff states that the San Francisco Superior Court has issued an order granting her husband full custody of their child. She seeks from this Court an order vacating the state court's custody order, an order granting her custody of the child, and an order requiring her husband to provide her with spousal and child support.

Federal district courts lack power to review orders issued by a state court. See Atlantic Coast Line Railroad Co. v. Brotherhood of Locomotive Engineers, 398 U.S. 281,

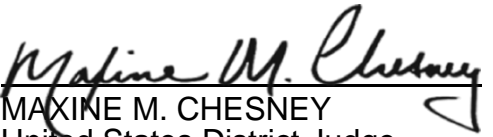
1 296-97 (1970) (vacating district court order enjoining enforcement of state court order;
2 holding "lower federal courts possess no power whatever to sit in direct review of state
3 court decisions"). Similarly, federal district courts lack power to "award custody of
4 children" or "determine support payments." See Peterson v. Babbitt, 708 F.2d 465, 466
5 (9th Cir. 1983).

6 Accordingly, the petition is hereby DISMISSED, without prejudice to plaintiff
7 seeking relief in state court.

8 The Clerk of Court shall close the file.

9 **IT IS SO ORDERED.**

10
11 Dated: December 6, 2016


MAXINE M. CHESNEY
United States District Judge

United States District Court
Northern District of California